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KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER

ZURITA, JAMES H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/377,447

Applicant(s)

BEZOS ET AL.

Examiner

James H Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-54, 56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54, 56 and 57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Appeal***

In view of the appeal brief filed on 12 November 2003, PROSECUTION IS HEREBY REOPENED. New grounds for rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claims 1-54 and 56-57 are pending and will be examined.

***Response to Arguments***

Applicant argues that the rejection under 35 U.S.C. § 103 is improper since the Examiner has not set forth a prima facie case of obviousness. Applicant's argument is persuasive. Applicant's arguments concerning prior art references are moot in view of new references and grounds for rejection.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1-54 and 56-57 are rejected under 35 U.S.C. 103(a) as follows:**

**Claims 1-25, 37-38 are rejected under 35 U.S.C. 103(a)** as being unpatentable over **Herz** (US Patent 6,460,036) in view of an article by Peggy Watt in ***Network World*** "Varied collaborative approaches entice intranet users," Framingham, 21 April 1997, vol. 14, issue 16, page S14.

**As per claims 1 and 12**, Herz discloses methods and systems of assisting users in selecting items from an electronic catalog of items, the catalog accessible to users of an online sales system that provides services for allowing users to purchase items from the catalog, the method comprising:

- (a) ***providing*** a database which contains information about a plurality of user communities (See, for example, Fig. 1 and related text concerning databases) wherein different communities represent different subsets of users of the sales system.
- (b) ***tracking*** online purchases of items from the sales system by the users to generate *purchase history data*, and *storing the purchase history data* in a computer memory; See, for example, references to *history data* for users of the sales system. See, for example, references to items bought in the past, at least Col. 71, lines 25-55, and references to information about a plurality of user communities wherein different communities represent different subsets of users of the sales system, for example, references to constructing virtual communities of people, Col. 7, lines 58-67; Col. 74, line 8-Col. 78, line 42.

(c) **processing** by analyzing at least the *purchase history data* to *identify* at least one item (target objects) which, based on actions of both members and non-members of a selected community of said plurality of user communities, has a *popularity* level that is substantially greater within the selected community than outside the selected community. See, for example, Col. 4, line 35-Col. 6, line 35; see also references to User interest, at least in Col. 18, line 28-Col. 19, line 42; Col. 12, lines 11-58; see also references to popularity among users in general, at least Col. 18, lines 49-Col. 19, line 42. For example, see references to a target object's popularity or circulation measurable by attributes of users who have retrieved the object. Users may belong to one or more virtual community, as noted below. Other examples include target objects such as messages posted to an electronic community, or rating by experts. See also Fig. 12 and related text, which describes assigning attribute weights as function of a user U and users like U (i.e., a subset of users within a general population), compared to the popularity of X among users in general. Col. 18, lines 49-Col. 19, line 42).

(d) **notifying**, electronically, users that the at least one item is popular within the selected community... See, for example, references to Delivering messages to a Virtual community, at least Col. 78, line 42- Col. 79, line 44.

As in claim 12 (d), Herz notifies users of the sales system of [a] the items ... for which such popularity level disparities exist, See, for example, references to Delivering messages to a Virtual community, at least Col. 75, line 55- Col. 79, line 44.

Claim 12 (d), will be interpreted to require sending the name of a virtual community in the electronic notification to a user. Herz **does not** specifically disclose notifying users of the sales system of “... [b] [the name(s) of the] associated communities for which such popularity level disparities exist...”

Herz discloses that e-mail messages may include information concerning a virtual community, such as (a) inform a user of the existence of a virtual community, (b) provide instructions which a user may follow in order to join a virtual community, (c) a credential, (d) an indication of the common interests of the community, for example, by including a list of titles of messages recently sent to the community, or a charter or introductory message provided by the community, or a [cluster] label generated that identifies content of the cluster of messages that make up the virtual community, or user profiles, search profiles, or target objects that was used to identify a pre-community. (see, for example, Col. 77, lines 22-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Herz to include a cluster label, or name, for a selected virtual community along with an item popular within the selected virtual community. One of ordinary skill in the art at the time the invention was made would have been motivated to extend Herz to include a cluster label, or name, for a selected virtual community along with an item popular within the selected virtual community for the obvious reason that by doing so, one may create an easy way to identify a virtual community in the mind of a user, and perhaps permit the user to recommend an easily remembered and recognized virtual community to a friend.

Herz **does not** specifically disclose, as in **claim 1(d)**, "...to assist users in selecting items from the electronic catalog..." and **claim 12 (d)** "...to thereby assist such users in selecting items from the electronic catalog...." However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps of providing a database, identifying user communities, tracking purchases, storing the data, identifying at least one item with varying popularity level and notifying users of the item and a name of a virtual community would be performed the same regardless of the intended use. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to perform the steps of providing a database, identifying user communities, tracking purchases, storing the data, identifying at least one item with varying popularity level and notifying users of the item and a name of a virtual community because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. Further, the recited statement of intended use, "...to assist users in selecting items from the electronic catalog..." and "...to thereby assist such users in selecting items from the electronic catalog...." does not patentably distinguish the claimed system.

**As per claim 2**, Herz **does not** specifically disclose that electronically notifying users comprises generating a *Web page* which includes a community-based most popular items list. Herz discloses the use of web pages and targeted advertising. Herz also discloses notification through *e-mail*. Herz also discloses that the system may also keep track of and recommend, notify of important articles that are most interesting to other users who have a similar stock portfolio to that user. See, for example, Col 61, line 65-Col. 62, line 19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include notification methods such as generating and displaying a web page that includes a community-based most popular items list. One of ordinary skill in the art at the time the invention was made would have been motivated to include notification methods such as generating and displaying a web page that includes a community-based most popular items list for the obvious reason that one could laterally link a collection of popular items into a virtual mall. A user may perform lateral navigation between neighboring clusters, as suggested by Herz for navigational ease. See, for example, Col. 67, line 35-Col. 69, line 11.

**As per claim 3**, Herz discloses that most *popular* items list is a bestsellers list. See for example, references to articles of greatest interest to particular groups (a bestseller), at least Col. 60, lines 12-43.

**As per claim 4**, Herz discloses that electronically *notifying* users comprises automatically generating and sending an *e-mail* message to members of the selected community. See, for example, references to Delivering messages to a Virtual community, at least Col. 78, line 42- Col. 79, line 44.



**As per claim 5**, Herz discloses that an *e-mail* message may contain contact information of at least one member of the community that has purchased an item described in the *e-mail* message. See, for example, references to including addresses at which a user may be contacted, at least Col. 53, lines 10-63.

**As per claim 6**, Herz discloses that processing the purchase history data to identify at least one item comprises identifying a set of characterizing purchases for the community.

**As per claims 7 and 16**, Herz discloses that at least some of the communities are implicit membership communities. Implicit membership communities, as defined by applicant, are communities where membership is determined without any active participation of a user, such as domain-based, New Orleans geographic residents, or by users' past purchase histories, or users having a common attribute in their profile, such as *e-mail* address, shipping/billing address, or other known user information. Herz discloses that a Virtual Community Service scans bulletin boards, mailing lists and activity of communities to identify communities and create a profile for each community found. Alternatively, Herz groups users who have similar interests of any sort or by similarity of their associated user profiles. See, for example, Col. 76, lines 25-56.

**As per claims 8 and 17**, Herz discloses that at least some of the communities are based on *e-mail* addresses of users. See, for example, Col. 75, line 1-37.

**As per claims 9, 14**, Herz discloses a user interface that allows users to select and join at least some of the user communities. These communities, where a user may sign up and join, are explicit membership communities, as in claim 9. See, for example,

references to joining virtual communities, including pre-existing communities, Col. 74, line 11-Col. 78, line 41.

As per claims 10 and 18, Herz **does not** specifically disclose that at least some of the communities are based on electronic address books of the users. Herz discloses that a user's electronic mail address may uniquely identify a user and a user's network vendor. See, for example, Col. 28, line 59-Col. 29, line 31. Herz also discloses that customization and matching may be based on user profiles and target object characteristics, where attributes may include an *e-mail* address. See, for example, Col. 6, line 3-35. Herz discloses that virtual communities may be implemented on any network, including a network in a [particular, specified] small company. Col. 74, line 66-Col. 75, line 7. Herz discloses that target objects may be companies, large companies, law firms and universities. See at least Col. 75, lines 23-38. Herz discloses that user *e-mail* addresses may identify vendors, private companies, universities (Col. 29, lines 1-31) and even law firms. See, for example, Col. 75, line 22-38. **Network World** discloses various collaborative approaches designed to assist virtual communities such as may be found in law firms. One particular tool permits users to draw data from existing databases, *e-mail* directories, calendar or scheduling programs. The product is an enhanced version of an address book program used by law offices. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Herz and **Network World** to disclose the use of users' electronic address books as the basis for at least some of the virtual communities. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Herz

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and **Network World** to disclose the use of users' electronic address books as the basis for at least some of the virtual communities for the obvious reason that intranets encourage the sharing of information and using an address book as the basis for organizing a virtual community makes it easier to supply information to traveling staff or remote members of a law firm.

**As per claims 11 and 15**, Herz discloses methods and systems further comprising a user interface which allows a user to define a composite community that includes multiple communities of the database, and to initiate generation of a *popular* items list for the composite community. See, for example, references to identifying and clustering virtual communities and pre-communities, at least Col. 75, line 56-Col. Col. 77, line 21.

**As per claim 13**, Herz discloses (a) a first process for creating a list of items that are popular within at least some of the communities (a bestseller list) and (b) *selecting* items from the list to display to users. See, for example, recommending (highlighting) articles from a directory, at least in Col. 62, line 41-Col. 63, line 19. See also, for example, references to articles of greatest interest to particular groups (a bestseller), at least Col. 60, lines 12-43. Herz **does not** specifically disclose that bestselling items are generated as a table by a first process, or that a second process selects the items. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use relational database objects such as tables to store and display information. One of ordinary skill in the art at the time the invention was made would have been motivated to use relational databases and objects such as tables to store and display

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information for the obvious reason that the relational model is very popular and permits interfacing with similarly designed applications. For example, SQL, the structured query language, may be used to obtain data from different systems, often without having to change underlying commands. For example, see rejection of claims 1 and 18, above, which permits drawing from SQL databases to access data from address books.

**As per claim 19**, Herz discloses *generating* and *displaying* community bestsellers lists for at least some of the communities. See, for example, recommending (highlighting) articles from a directory, at least in Col. 62, line 41-Col. 63, line 19. See also, for example, references to articles of greatest interest to particular groups (a bestseller), at least Col. 60, lines 12-43.

**As per claim 20**, Herz **does not** specifically disclose comparing [a] a *popularity* of an item within a community to [b] a *popularity* of the item among non-members of the community. Herz discloses comparing popularity of a target object within a community against the popularity among users in general. See, for example, Col. 18, line 49-Col. 19, line 42. Herz does this, according to Fig. 12, by computing a target object's interests for a selected user. However, Herz shows that users may belong to various virtual communities. It would have been obvious to one of ordinary skill in the art at the time the invention was made to compare popularity of a target object for all users within a virtual community A and compare it to the popularity of the target object among non-members of the community, that is, the subset of all users minus the subset of users within virtual community A. One of ordinary skill in the art at the time the invention was made would have been motivated to compare popularity of a target object for all users

within a virtual community A and compare it to the popularity of the target object among non-members of the community, that is, the subset of all users minus the subset of users within virtual community A for the obvious reason that by doing so, one can obtain useful comparisons that permit sellers to better target their advertising money.

**As per claim 21**, Herz discloses sending users notification *e-mails* that include descriptions of the items that are *popular* within particular communities. See, for example, references to having electronic notification include product descriptions, at least Col. 6, lines 3-35.

**As per claim 22**, Herz discloses that at least some of the notification *e-mails* include contact information of users that have purchased items described therein. See, for example, references to contacting users, Col. 53, lines 20-30. See also references to identify and contacting a user, at least in the Abstract. See also references to putting users of a pre-community in contact with each other, Col. 75, line 56-Col. 76, line 24.

**As per claim 23**, Herz discloses that at least some of the notification *e-mails* (see, for example, Col. 61, lines 20-25) specify a level of acceptance an item has attained within a particular community. See, for example, references to user interest level, at least Col. 2, line 5-39, relative level of user interest in each type of stock (as applicable to an investment portfolio), at least Col. 61, line 29-Col. 62, line 63. This information may be part of the electronic notification to a user.

**As per claim 24**, Herz discloses identifying items that are have substantially higher *popularity* levels within particular communities by at least *identifying* a set of items purchased by members of a community that distinguishes the community from a

general user population. Herz discloses comparing popularity of a target object within a community against the popularity among users in general. See, for example, Col. 18, line 49-Col. 19, line 42. Herz does this, according to Fig. 12, by computing a target object's interests for a selected user.

**As per claim 25**, Herz **does not** disclose the use of a censored chi-square algorithm [on sets of data, or on sets of activity history data, or on sets of purchase history data] to *identify* the set of items. It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform statistical analysis on the data being examined, perhaps by applying a chi-square type algorithm, perhaps examining activity history data in order to suppress or delete (i.e., censoring) any data considered objectionable or that might distort the analysis. It is well known that when examining (nominal or ordinal) nonmetric data belonging to two or more independent samples, one would use any of multiple statistical algorithms, including a chi-squared algorithm, perhaps to test statistical independence or to test of goodness-of-fit. One of ordinary skill in the art at the time the invention was made would have been motivated to use a censored chi-square algorithm for the obvious reason that it is important to focus the evaluation on the independence of the data, perhaps by eliminating stragglers that would otherwise distort results of a comparison.

**As per claims 37 and 38**, Herz **does not** specifically disclose that processing the purchase history data comprises excluding, substantially, from consideration purchase history data falling outside a selected look-back period. Herz discloses examining the age of an item, such as time since authorship, which he refers to as

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*outdatedness*. See, for example, Col. 18, line 65-Col. 19, line 5. See also evaluation of age with decay factors in re-computation of interest of a target object. See at least Col. 53, line 9-Col. 54, line 2. It would have been obvious to one of ordinary skill in the art at the time the invention was made to exclude purchase history data falling outside a selected look-back period. One of ordinary skill in the art at the time the invention was made would have been motivated to exclude purchase history data falling outside a selected look-back period for the obvious reason that information may quickly become outdated and be of little value to a user, as might happen with presenting users with outdated lists of bestselling stocks, for example.

**Claims 32-36 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Herz (US Patent 6,460,036).

**As per claim 32**, Herz discloses methods of assisting users in selecting items from a catalog of items, comprising:

- (a) **identifying a subset** of a general population of users. See, for example, references to virtual communities, Col. 74, line 10-Col. 79, line 38.
- (b) **tracking** at least one type of user activity that indicates user affinities for particular items of the catalog to generate activity history data. See, for example, references to items bought in the past, at least Col. 71, lines 25-55, and references to information about a plurality of user communities wherein different communities represent different subsets of users of the sales system, for example, references to

constructing virtual communities of people, Col. 7, lines 58-67; Col. 74, line 8-Col. 78, line 42.

(c) **processing** the activity history data of the general population of users, including the subset of users, to identify a set of items that distinguish the subset from the general population. See, for example, Col. 34, line 49-Col. 35, line 43.

(d) **notifying** users of the catalog of a ***relationship between the set of items and the subset of users***. See, for example, electronic notification of the relationship between target objects and user virtual communities, at least Col. 30, lines 27-39. See also references to correlations for groups of users and presentation of identified articles to users, at least Col. 58 line 25-Col. 59, line 8.

Should claim 32(d) be interpreted to also require notifying users not only of the relationship between a set of items and a subset of users, but also to require notifying users of the name, or other identification, of the subset of users for which the relationship exists, the following applies, as in claim 12(d), above. Herz discloses that notifications to users may also (a) inform a user of the existence of a virtual community, (b) provide instructions which a user may follow in order to join a virtual community, (c) a credential, (d) an indication of the common interests of the community, for example, by including a list of titles of messages recently sent to the community, or a charter or introductory message provided by the community, or a [cluster] label generated that identifies content of the cluster of messages that make up the virtual community, or user profiles, search profiles, or target objects that was used to identify a pre-community. (see, for example, Col. 77, lines 22-51). However, as in claim 12 (d), Herz **does not**



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specifically disclose notifying users of the catalog of ...and [b] [a name given to] the subset of users...”

It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Herz to include a cluster label, or name, for a selected virtual community along with an item popular within the selected virtual community. One of ordinary skill in the art at the time the invention was made would have been motivated to extend Herz to include a cluster label, or name, for a selected virtual community along with an item popular within the selected virtual community for the obvious reason that by doing so, one may create an easy way to identify a virtual community in the mind of a user, and perhaps permit the user to recommend an easily remembered and recognized virtual community to a friend.

Herz **does not** specifically disclose “...to thereby assist the users of the catalog in selecting items therefrom....” However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited, identifying a subset of users, tracking, processing and notifying. The steps would be performed the same regardless of the intended use. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to perform the steps of identifying a subset of users, tracking, processing and notifying “...to thereby assist the users of the catalog in

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selecting items therefrom....” does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. Further, the recited statement of intended use does not patentably distinguish the claimed system.

**As per claim 33**, Herz discloses that processing the activity history data comprises processing purchase history data, and the set of items consists essentially of items purchased by members of the subset. See, for example, references to items bought in the past, at least Col. 71, lines 25-55, and references to information about a plurality of user communities wherein different communities represent different subsets of users.

**As per claim 34**, Herz discloses tracking at least one type of user activity comprises tracking item viewing events. See, for example, Col. 58, line 55-Col. 59, line 8, which discloses monitoring articles read by a user.

**As per claim 35**, Herz **does not** specifically disclose that processing the activity history data comprises applying a censored chi-square algorithm to the activity history data. This claim is rejected on similar grounds as claim 25, above.

**As per claim 36**, Herz discloses that a subset may consist of members of an implicit membership community. Implicit membership communities, as defined by applicant, are communities where membership is determined without any active participation of a user, such as domain-based, New Orleans geographic residents, or by users' past purchase histories, or users having a common attribute in their profile, such as e-mail address, shipping/billing address, or other known user information. Herz

discloses that a Virtual Community Service scans bulletin boards, mailing lists and activity of communities to identify communities and create a profile for each community found. Alternatively, Herz groups users who have similar interests of any sort or by similarity of their associated user profiles. See, for example, Col. 76, lines 25-56.

**Claims 26-31, 39-42 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Herz (US Patent 6,460,036) in view of an article by Gerald O'Connell, "*New Pitch*", Internet World, May 1995, pages 54-56.

**As per claim 26**, Herz discloses methods of assisting users in selecting items from an electronic catalog of items, the catalog accessible to users of an online sales system that provides services for allowing users to purchase items from the catalog, the method comprising the computer-implemented steps of

**(a) identifying a subset of users** of the store that have email addresses that satisfy a particular criteria, wherein the subset comprises a plurality of users. See, for example, references to criteria such as users' electronic mail address that uniquely identify a user and the user's network vendor, at least Col. 28, line 54-Col. 29, line 32. See, for example, references to scanning email addresses to identify servers or entities that maintain the mail lists and directories, at least Col. 72, line 56-Col. 75, line 54. See also references to email filters, Co. 62, line 64-Col. 64, line 54. Email addresses may identify single organizations, for example, large company, a law firm, or university. Please note that this analysis is

available when users are the target objects as well, as in Col. 5, line 23-Col. 6, line 36.

- (b) **identifying at least one item** that characterizes the subset of users, wherein the step of identifying comprises processing purchase history data of the subset of users and of users falling outside said subset. See, for example, subscription and access to similar subscription based newsgroups identified by user profiles, where user profiles and user interest profiles contain email information. See at least Col. 55, line 42-Col. 62, line 40. See also references to mailing lists created by virtual community services, as in Col. 72, line 10-Col. 78, line 8.
- (c) **notifying, electronically**, users of the online sales system of a relationship between the at least one item and the subset of users. See, for example, references to delivering messages to virtual communities, as in Col. 78, line 43-Col. 789, line 43. See also, for example, electronic notification of the relationship between target objects and user virtual communities, at least Col. 30, lines 27-39. See also references to correlations for groups of users and presentation of identified articles to users, at least Col. 58 line 25-Col. 59, line 8.

Should claim 26(c) be interpreted to also require notifying users not only of the relationship between the eat least one item and the subset of users, but also to require notifying users of the name, or other identification, of the subset of users for which the relationship exists, the following applies, as in claim 12(d) and 32(d), above. Herz discloses that notifications to users may also (a) inform a user of the existence of a virtual community, (b) provide instructions which a user may follow in order to join a

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virtual community, (c) a credential, (d) an indication of the common interests of the community, for example, by including a list of titles of messages recently sent to the community, or a charter or introductory message provided by the community, or a [cluster] label generated that identifies content of the cluster of messages that make up the virtual community, or user profiles, search profiles, or target objects that was used to identify a pre-community. (see, for example, Col. 77, lines 22-51). However, as in claim 12 (d), Herz **does not** specifically disclose notifying users of the catalog of ...and [b] [a name given to] the subset of users...”

It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Herz to include a cluster label, or name, for a selected virtual community along with an item popular within the selected virtual community. One of ordinary skill in the art at the time the invention was made would have been motivated to extend Herz to include a cluster label, or name, for a selected virtual community along with an item popular within the selected virtual community for the obvious reason that by doing so, one may create an easy way to identify a virtual community in the mind of a user, and perhaps permit the user to recommend an easily remembered and recognized virtual community to a friend.

Herz **does not** specifically disclose “... to assist users in selecting items from the electronic catalog...” However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps of identifying subsets of users, identifying items and notifying would be performed the same regardless of the intended use. Thus, this descriptive material will not distinguish

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the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to perform the steps of identifying subsets of users, identifying items and notifying because such recitation does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. Further, the recited statement of intended use, "... to assist users in selecting items from the electronic catalog..." does not patentably distinguish the claimed system.

**As per claims 27-29**, Herz discloses identifying a subset of users (virtual communities) by various criteria of their user profiles, interest profiles and virtual communities. As per claims 27-29, Herz **does not** specifically disclose that virtual community identification is done by *identifying* all users having a selected domain name within their respective email addresses (claim 27) or that a selected domain name is a domain name of a selected company (claim 28) or by *identifying* all users that have one of a selected *group* of domain names within their respective email addresses (claim 29).

Herz references criteria such as users' electronic mail address that uniquely identify a user and the user's network vendor, at least Col. 28, line 54-Col. 29, line 32. It is well known that an email addresses may belong to a single organization, such as a large company, a law firm or a university. Email addresses may be parsed to yield information to identify target markets for advertising. A unique email address, for

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example, may yield a user's postal address, or, in the case of a company, the company's postal address.

**New Pitch** discloses targeted advertising using collaborative filtering, as in the application. **New Pitch** provides specific examples of targeting by using components of email addresses. See page 55, for example, which states, "...an automobile manufacturer selling an entry-level brand may wish to reach a particular set of users (perhaps people in the .edu domain [as in Herz' universities] who have requested job information), which a maker selling a luxury model might try to reach a different set of users (such as those from commercial domains of Fortune 1000 companies [for example, user@ge.com] who have requested high-end technical information).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Herz and **New Pitch** to disclose that identifying a subset of users may be done by *identifying* all users having a selected domain name within their respective email addresses (claim 27) and that a selected domain name may be a domain name of a selected company (claim 28) and by *identifying* all users that have one of a selected *group* of domain names within their respective email addresses (claim 29). One of ordinary skill in the art at the time the invention was made to would have been motivated to combine Herz and **New Pitch** to disclose that identifying a subset of users may be done by *identifying* all users having a selected domain name within their respective email addresses (claim 27) and that a selected domain name may be a domain name of a selected company (claim 28) and by *identifying* all users that have one of a selected *group* of domain names within their

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respective email addresses (claim 29) for the obvious reason that being able to dynamically address content to specific individuals to help guide individuals to content that may be most relevant works to the advantage of the advertiser. For example, an advertiser may further narrow the .edu domain to only Ivy league universities [for example, user@yale.edu] , and target those users with advertisements for more expensive cars.

**As per claim 30**, Herz **does not** specifically disclose that electronically notifying comprises generating a Web page which includes a list of items that characterize the subset of users. **New Pitch** discloses that web pages may be composed in real time and the content of those pages may be based on lookups to outside data sources or historical usage patterns that may go back months, years or just minutes. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Herz and **New Pitch** to disclose that electronically notifying may comprise generating a Web page which includes a list of items that characterize a subset of users. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Herz and **New Pitch** to disclose that electronically notifying may comprise generating a Web page which includes a list of items that characterize a subset of users for the obvious reason that appeal and relevance are very important in advertising over the Internet. Given the amount of control in the hands of a user, advertising must have a sensory or informational appeal or users may simply choose not to pursue it.



**As per claim 31**, Herz discloses that electronically notifying comprises sending email notification messages to at least some of the users of the subset. See, for example, Col. 78, line 43-Col. 79, line 44.

**As per claim 39**, Herz discloses, comparing a popularity level of the item among the subset of users to a popularity level of the item among a general population of users. Herz discloses comparing popularity of a target object within a community against the popularity among users in general. See, for example, Col. 18, line 49-Col. 19, line 42. Herz does this, according to Fig. 12, by computing a target object's interests for a selected user.

**As per claim 40**, Herz discloses identifying items that are have substantially higher popularity levels within particular communities by at least identifying a set of items purchased by members of a community that distinguishes the community from a general user population by comparing popularity of a target object within a community against the popularity among users in general. See, for example, Col. 18, line 49-Col. 19, line 42. Herz does this, according to Fig. 12, by computing a target object's interests for a selected user.

**As per claim 41**, Herz **does not** disclose applying censored chi-square type algorithm to the purchase history data. This claim is rejected on similar grounds claim 25, above.

**As per claim 42**, Herz **does not** use the terms velocity or acceleration when identifying at least one item that characterizes the subset of users as against a general user population.

**Claims 43-50 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Herz (US Patent 6,460,036) in view of an article by Jennifer Lach, "Reading Your Mind, Reaching your Wallet" *American Demographics*, Ithaca, Nov. 1998, vol. 20, iss. 11, page 39, 4 pages and further in view of an article by Karen Angel, "Are independents making a comeback?" *Publishers Weekly*, New York, June 8, 1998, vol. 245. issue 23, page 21, 5 pages.

**As per claim 43**, Herz discloses methods for assisting users in selecting items from an electronic catalog of items, comprising:

- (a) **identifying**, among a population of users of the electronic catalog, a subset of users. See, for example, references to virtual communities, Col. 74, line 10-Col. 79, line 38.
- (b) **monitoring** actions of the subset of users, and of users falling outside the subset, to generate user activity history data reflective of user actions performed with respect to items in the electronic catalog. See, for example, references to items bought in the past, at least Col. 71, lines 25-55, and references to information about a plurality of user communities wherein different communities represent different subsets of users of the sales system, for example, references to constructing virtual communities of people, Col. 7, lines 58-67; Col. 74, line 8-Col. 78, line 42.
- (c) **processing** the user activity history data to identify an item whose popularity level among the subset of users is substantially higher than a *popularity* level of the item among the population of users. See, for example, Col. 34, line 49-Col. 35, line 43.

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(d) **notifying** at least one user that a relationship exists between the item and information concerning the subset of users. See, for example, electronic notification of the relationship between target objects and user virtual communities, at least Col. 30, lines 27-39. See also references to correlations for groups of users and presentation of identified articles to users, at least Col. 58 line 25-Col. 59, line 8. Herz discloses that notifications to users may include other information that (a) informs a user of the existence of a virtual community, (b) provides instructions which a user may follow in order to join a virtual community, (c) a credential, (d) an indication of the common interests of the community, for example, by including a list of titles of messages recently sent to the community, or a charter or introductory message provided by the community, or a [cluster] label generated that identifies content of the cluster of messages that make up the virtual community, or user profiles, search profiles, or target objects that was used to identify a pre-community. (see, for example, Col. 77, lines 22-51).

As in claim 43 (a) Herz **does not** specifically disclose identifying the subset of users based on user **shipping address**. Herz **does not** specifically determine that users reside in a common geographic region based on the users' shipping addresses.

As per claim 43 (d) Herz **does not** specifically disclose identifying a geographic region when notifying users that a relationship exists between an item and the geographic region.

Herz provides a specific example where an advertiser might wish to target potential customers based on stored attributes of a potential customer. The attributes may include zip codes, distance of residence from an advertiser's nearest physical

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storefront. Herz also suggests that other user demographic and psychological attributes may be used. See, for example, Col. 11, lines 22-60. ***American Demographics*** discloses use of collaborative filtering in targeted advertising where users fill out a survey including home address. A home address is the address of a user's residence where users often receive items that are being shipped or delivered to a user, such as letters, packages, etc., i.e., a shipping address. In one example, a Chicago area resident (a user within a subset of users identified as living in Chicago based on the zip code of their residence) may be notified about a jazz concert. She would also be notified where in the Chicago area the concert may be taking place, so she can go to the concert. In addition, the vendor may suggest additional events to her, based on what people who have expressed similar tastes have liked. See at least page 3, paragraph 4.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Herz and ***American Demographics*** to disclose, as in claim 43(a), identifying the subset of users based on user shipping address and, as in claim 43(d), identifying a geographic region when notifying users that a relationship exists between an item and the geographic region. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Herz and ***American Demographics*** to disclose, as in claim 43(a), identifying the subset of users based on user shipping address and, as in claim 43(d), identifying a geographic region when notifying users that a relationship exists between an item and the geographic region for the obvious reason that a user become a repeat customer because the user

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may obtain customized, personalized information. Such repeat business, often based on suggestions, may contribute a large share of total sales revenue.

Herz **does not** specifically disclose "...to assist the at least one user in selecting items from the electronic catalog...." However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps of identifying, monitoring, processing, notifying, would be performed the same regardless of the intended use. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to perform the steps of identifying, monitoring, processing, notifying because such recitation does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. Further, the recited statement of intended use, "... to assist users in selecting items from the electronic catalog..." does not patentably distinguish the claimed system.

**As per claim 44**, Herz **does not** specifically disclose that *processing* the user *activity history data to identify* an item whose *popularity* level among the subset of users is substantially higher [...than a *popularity* level of the item among the population of users...] comprises at least one of (a) comparing a velocity of the item within the subset

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to a velocity of the item within a general user population; and (b) comparing an acceleration of the item within the subset to an acceleration of the item within a general user population. **Publishers Weekly** discloses growth of sales by certain percentages over specified periods of time. See, for example, references to growth of market share by 36.4% from 1992-1996; total sales growth of 6.6% for the same period. Neither Herz nor **Publishers Weekly** use the terms velocity or acceleration when discussing analysis of sales activity data.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Herz and **Publishers Weekly** to disclose at least one of (a) comparing a velocity of the item within the subset to a velocity of the item within a general user population; and (b) comparing an acceleration of the item within the subset to an acceleration of the item within a general user population. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Herz and **Publishers Weekly** to disclose at least one of (a) comparing a velocity of the item within the subset to a velocity of the item within a general user population; and (b) comparing an acceleration of the item within the subset to an acceleration of the item within a general user population for the obvious reason that it is important to keep track of one's sales over time, both inside and outside target populations. For example, the success of a book like *The God of Small Things* can largely be traced to its enthusiastic Indian constituency in general and particularly the Indian constituency in Portland Oregon. See, for example, page 4, last paragraph and page 5, first paragraph.

**As per claim 45**, Herz **does not** specifically disclose that *processing* the user *activity* history data to identify an item whose popularity level among the subset of users is substantially higher [...than a popularity level of the item among the population of users...] comprises applying a censored chi-square type algorithm to the user activity history data. This claim is rejected on similar grounds as claim 25, above.

**As per claim 46**, Herz **does not** specifically disclose that *notifying* at least one user comprises *presenting* to the user a list of items that are *popular* in the geographic region relative to *popularity* levels outside the region. ***Publishers Weekly*** discloses notifying users of bestseller lists. ***Publishers Weekly*** discloses that the sales of several items elevated these items from regional popularity (i.e., the items are first more popular in a particular geographic region relative to the popularity level of the item outside the region) to national bestseller lists. See, for example, page 4, paragraph 8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Herz and ***Publishers Weekly*** to disclose that *notifying* at least one user comprises *presenting* to the user a list of items that are *popular* in the geographic region relative to *popularity* levels outside the region. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Herz and ***Publishers Weekly*** to disclose that *notifying* at least one user comprises *presenting* to the user a list of items that are *popular* in the geographic region relative to *popularity* levels outside the region for the obvious reason that by doing so, marketers can take advantage of regional trends and perhaps extend the results in a local market to a broader geographic region, such as at a national level.

**As per claim 47**, Herz discloses that user actions performed with respect to items in the electronic catalog may comprise item purchases. See, for example, references to items bought in the past, at least Col. 71, lines 25-55, and references to information about a plurality of user communities wherein different communities represent different subsets of users.

**As per claim 48**, Herz discloses that user actions performed with respect to items in the electronic catalog comprise item viewing events. See, for example, Col. 58, line 55-Col. 59, line 8, which discloses monitoring articles read by a user.

**As per claim 49**, Herz **does not** specifically disclose that a geographic region corresponds to a particular city. Herz provides capability of creating subsets of users and targeting advertisements to them by zip codes. Zip codes are numbers that identifies each postal delivery area in the United States. ***American Demographics*** discloses a geographic region corresponding to a particular city, Chicago. It would have been obvious to one of ordinary skill at the time the invention was made to combine Herz and ***American Demographics*** to disclose that a geographic region may correspond to a particular city. One of ordinary skill at the time the invention was made would have been motivated to combine Herz and ***American Demographics*** to disclose that a geographic region may correspond to a particular city for the obvious reason that residents of cities often take pride in living in those cities. Referring to Chicago as the "Windy City" for example, creates a sense of community and shared experiences among its residents.



As per claim 50, Herz does not specifically disclose that processing the user activity history data comprises applying a time window to the user activity history data such that a popularity level of the item is measured substantially from a most recent set of the user activity history data. **Publisher's Weekly** discloses comparison of sales figures from one period to another. See, for example, page 4, paragraph 2. **Publishers Weekly** also discloses comparing figures for new sales. It would have been obvious to one of ordinary skill at the time the invention was made to combine Herz and Publishers Weekly to disclose that processing the user activity history data comprises applying a time window to the user activity history data such that a popularity level of the item is measured substantially from a most recent set of the user activity history data. One of ordinary skill at the time the invention was made would have been motivated to combine Herz and Publishers Weekly to disclose that processing the user activity history data comprises applying a time window to the user activity history data such that a popularity level of the item is measured substantially from a most recent set of the user activity history data for the obvious reason that by applying a time window to measure popularity level from a most recent set of data, one can analyze trends and arrive at conclusions such as to expand or not to expand, to hire or not hire new staff. At least these suggestions are found in Publishers Weekly, page 3, first paragraph.

**Claims 51-54, 56-57 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Herz (US Patent 6,460,036) in view of "**New Pitch**," Internet World, May 1995, pages 54-56, and further in view of **Journal of Marketing**, "Understanding

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the bond of identification: An investigation of its correlates among art museum members" by Bhattacharya et al, Chicago, October 1995, vol. 59, issue 4, page 46.

**As per claims 51 and 57**, Herz discloses computer-implemented methods of assisting users in selecting items from an electronic catalog of items, including

- (d) ***storing email addresses*** of users of the electronic catalog. See, for example, references to criteria in a user profile such as users' electronic mail address that uniquely identify a user and the user's network vendor, at least Col. 28, line 54-Col. 29, line 32. See, for example, references to scanning email addresses to identify servers or entities that maintain the mail lists and directories, at least Col. 72, line 56-Col. 75, line 54. See also references to email filters, Co. 62, line 64-Col. 64, line 54.
- (e) ***identifying***, ...a respective group of said users ... to thereby identify a plurality of ...groups of users. Email addresses may identify single organizations, for example, large company, a law firm, or university. Please note that this analysis is available when users are the target objects as well, as in Col. 5, line 23-Col. 6, line 36.
- (f) ***tracking*** at least one type of user activity that indicates user affinities for particular items in the electronic catalog to generate activity history data for the users. See, for example, references to history data for users of the sales system; history data includes activity (e.g., viewing events) history data and purchase history data. See, for example, references to items bought in the past, at least Col. 71, lines 25-55, and references to information about a plurality of user

communities wherein different communities represent different subsets of users of the sales system, for example, references to constructing virtual communities of people, Col. 7, lines 58-67; Col. 74, line 8-Col. 78, line 42.

(g) ***analyzing***, for each ... group of users, the activity history data to generate a list of items within the electronic catalog that distinguish the ... group from a general population of the users, to thereby generate a plurality of group-specific ... popular items lists. See, for example, Col. 4, line 35-Col. 6, line 35; see also references to User interest, at least in Col. 18, line 28-Col. 19, line 42; Col. 12, lines 11-58; see also references to popularity among users in general, at least Col. 18, lines 49-Col. 19, line 42. For example, see references to a target object's popularity or circulation measurable by attributes of users who have retrieved the object. Users may belong to one or more virtual community, as noted below. Other examples include target objects such as messages posted to an electronic community, or rating by experts. See also Fig. 12 and related text, which describes assigning attribute weights as function of a user U and users like U (i.e., a subset of users within a general population), compared to the popularity of X among users in general. Col. 18, lines 49-Col. 19, line 42).

(h) ***Making public (exposing)*** the [group] specific popular items lists to the users of the electronic catalog in association with the [group] to which such popular items lists correspond, to allow users to identify items that are popular within specific [groups]. See, for example, references to delivering messages to virtual communities, as in Col. 78, line 43-Col. 789, line 43. See also, for example,

electronic notification of the relationship between target objects and user virtual communities, at least Col. 30, lines 27-39. See also references to correlations for groups of users and presentation of identified articles to users, at least Col. 58 line 25-Col. 59, line 8.

***As in 51(b), Herz does not*** specifically disclose identifying, for each of a plurality of organizations, a respective group of said users who are deemed to be affiliated with the respective organization by virtue of a domain name of the respective organization occurring within an email address of each such user, to thereby identify a plurality of organization-specific groups of users.

***As in claim 51 (d), Herz does not*** specifically disclose analyzing, for each organization-specific group of users, the activity history data to generate a list of items within the electronic catalog that distinguish the organization-specific group from a general population of the users, to thereby generate a plurality of group-specific organization-specific popular items lists.

***As per claim 51 (e), Herz does not*** specifically disclose making public (exposing) the organization-specific popular items lists to the users of the electronic catalog in association with the organizations to which such popular items lists correspond, to allow users to identify items that are popular within specific organizations.

Herz discloses that an email address that uniquely identify a user and the user's network vendor, at least Col. 28, line 54-Col. 29, line 32. It is well known that an email addresses may belong to a single organization, such as a large company, a law firm or

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a university. Email addresses may be parsed to yield information to identify target markets for advertising. A unique email address, for example, may yield a user's postal address, or, in the case of a company, the company's postal address. See also rejection of claims 10 and 18 for use of domain names in email address and address books to share information among intranets and workgroups as in a law firm. See rejection of claims 10 and 18 concerning extracting university names from **.edu** domains.

**New Pitch** discloses targeted advertising using collaborative filtering, as in the application. **New Pitch** provides specific examples of targeting by using components of email addresses. See page 55, for example, which states, "...an automobile manufacturer selling an entry-level brand may wish to reach a particular set of users (perhaps people in the **.edu** domain [as in Herz' universities] who have requested job information), which a maker selling a luxury model might try to reach a different set of users (such as those from commercial domains of Fortune 1000 companies [for example, user@ge.com] who have requested high-end technical information).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Herz and **New Pitch** to disclose, as in claim 51(b), **identifying, for each of a plurality of organizations, a respective group of said users who are deemed to be affiliated with the respective organization by virtue of a domain name of the respective organization occurring within an email address of each such user, to thereby identify a plurality of organization-specific groups of users, and as in **claim 51 (d), analyzing, for each organization-specific group of users, the activity****

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history data to generate a list of items within the electronic catalog that distinguish the organization-specific group from a general population of the users, to thereby generate a plurality of group-specific organization-specific popular items lists.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Herz and ***New Pitch*** to disclose, as in claim 51(b), ***identifying***, for each of a plurality of organizations, a respective group of said users who are deemed to be affiliated with the respective organization by virtue of a domain name of the respective organization occurring within an email address of each such user, to thereby identify a plurality of organization-specific groups of users, and as in ***claim 51 (d), analyzing***, for each organization-specific group of users, the activity history data to generate a list of items within the electronic catalog that distinguish the organization-specific group from a general population of the users, to thereby generate a plurality of group-specific organization-specific popular items lists, for the obvious reason that by doing so, one may obtain information as to what is being read at those companies. It may be possible to identify books that are popular among medical associations, law professors, Ivy league universities, as well as at particular companies (as in claim 56). This can be used as a basis for recommending these books to others, as suggested by ***Journal of Marketing***, which notes that identification of members, such as employees or alumni, leads to increased member loyalty to the organization. See, for example, page 2, third paragraph.

Identification in the customer arena also has desirable consequences of high brand loyalty and positive word of mouth. Ben and Jerry's, for example, is one of the

few organizations that provides employee benefits to unmarried couples and homosexual partners. Such policies, when publicized, can potentially create an attachment to the company among a larger target segment who share similar views and increase the value of a recommendation for a book that is widely read at Ben and Jerry's, regardless of its topic. Other attributes of a company that may lend itself to increasing the value of testimonials or recommendations of items popular within a company may include the company's reputation in an industry (for example, IBM in technology related items), ethical policies can be made known to the public (like Ben and Jerry's), an organization's culture, perceptions of a company's role, family friendly company, organization's on-site child care centers. Ultimately these recommendations may increase sales of a recommended item simply because of the goodwill (often a measurable asset on a balance sheet) felt toward a company.

**As per claim 52**, Herz and *New Pitch* disclose that exposing an organization-specific popular items lists to the users may comprises providing to a target user a personalized web page that displays organization-specific popular items lists of organizations with which the target user is affiliated. See, for example, references to web pages composed in real time, providing tailored, personalized information that may go back months, years or just minutes, page 55, center column, last 2 paragraphs. See also references to eye and ear candy for certain groups.

**As per claim 53**, Herz and *New Pitch* disclose that analyzing and presenting the activity history data comprises excluding, substantially, from consideration activity history data falling outside a selected look-back period. See, for example, references to

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web pages composed in real time, providing tailored, personalized information that may go back months, years or just minutes, page 55, center column, last 2 paragraphs.

**As per claim 54**, Herz **does not** specifically disclose that analyzing the *activity history data* comprises *applying* a censored chi-square type algorithm to the *activity history data*. This claim is rejected on similar grounds as claim 25, above.

**As per claim 56**, Herz and **New Pitch** disclose that at least some of the organizations are companies. See, for example, references to Fortune 1000 companies.

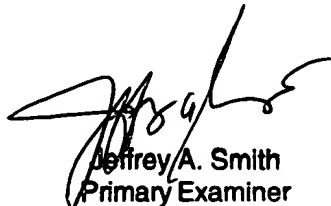
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-1113.

JE  
James Zurita  
Patent Examiner  
Art Unit 3625  
9 February 2004

  
Jeffrey A. Smith  
Primary Examiner